

Senate Bill 408

By: Senators Hill of the 32nd, Smith of the 52nd, Thomas of the 54th, Rogers of the 21st, Hawkins of the 49th and others

A BILL TO BE ENTITLED  
AN ACT

To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to provide definitions; to provide for small employer health group cooperatives; to provide for the requirements, powers, duties, and restrictions of a small employer health group cooperative; to provide for certain reports; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by adding a new chapter to read as follows:

"CHAPTER 30C

33-30C-1.

As used in this chapter, the term:

(1) 'Health group cooperative' or 'cooperative' means a private purchasing cooperative composed of small employers formed under this chapter.

(2) 'Health status related factor' means any of the following factors in relation to the individual or dependent of the individual: health status; medical condition, including both physical and mental illnesses; claims experience; receipt of health care; medical history; genetic information; evidence of insurability, including conditions arising out of acts of domestic violence; or disability.

(3) 'Small employer' means, in connection with a health insurance plan with respect to a calendar year and a plan year, any person, firm, corporation, partnership, association, or employer, as defined in Section 3(5) of the federal Employee Retirement Income Security Act of 1974, that is actively engaged in business that, on at least 50 percent of its working days during the preceding calendar year, employed no more than 50 eligible

employees or employed an average of not more than 50 employees on business days during the preceding calendar year and that employs at least one employee on the first day of the plan year. In determining the number of eligible employees, companies that are affiliated companies or that are eligible to file a combined tax return for purposes of state taxation or that are treated as a single employer under subsection (b), (c), (m), or (o) of Section 414 of the federal Internal Revenue Code of 1986 are considered one employer. In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether that employer is a small or large employer shall be based on the average number of employees that it reasonably is expected to employ on business days in the current calendar year. Any reference in this chapter to an employer includes a reference to any predecessor of the employer.

(4) 'Small employer insurer' means an insurer that offers health insurance plans covering eligible employees of one or more small employers in this state.

### 33-30C-2.

(a) A health group cooperative of small employers may be formed only for the purpose of obtaining insurance.

(b) A health group cooperative shall:

(1) Contain at least 1,000 eligible employees or shall have at least ten participating employers;

(2) Establish requirements for membership. A small employer's participation in a cooperative shall be voluntary, but an employer electing to participate in a cooperative shall commit to purchasing coverage through the cooperative for five years, unless allowed to terminate because of a financial hardship affecting the employer as determined by rules governing termination adopted by the Commissioner. The health group cooperative shall not exclude a small employer which otherwise meets the requirements for membership on the basis of claim experience or a health status related factor in relation to an employee or a dependent of an employee;

(3) Hold an open enrollment period at least once per year during which new members may join the health group cooperative;

(4) Allow eligible employees and their dependents, upon initial enrollment and during subsequent open enrollment periods, to choose among health insurance plans offered through the cooperative. A person covered by a health insurance plan which requires an enrollment period in excess of one year offered through the cooperative shall be eligible to choose among available plans upon the completion of the enrollment period;

(5) Offer coverage under all plans offered through the cooperative to all eligible employees of member small employers and their dependents. Coverage must be offered

61 to all employees of member small employers and their dependents; provided, however,  
62 that late enrollees may be excluded from coverage for the greater of 18 months or an  
63 18 month preexisting condition exclusion, provided that, if both a period of exclusion  
64 from coverage and a preexisting condition exclusion are applicable to a late enrollee, the  
65 combined period shall not exceed 18 months;

66 (6) Not assume any risk or form self-insurance plans among its members; and

67 (7) Have the option of using any type of rating arrangement with the health insurance  
68 plans and, at its discretion, premiums may be paid to the health insurance plans by the  
69 cooperative, by member small employers, or by eligible employees and their dependents.

70 (c)(1) The health group cooperative, before offering any health insurance plan through  
71 the cooperative, and annually after that time, shall register with the department and  
72 demonstrate continued compliance with the provisions of paragraph (2) of this  
73 subsection.

74 (2) The health group cooperative shall be organized as a nonprofit corporation and have  
75 the rights and duties pursuant to the provisions of Chapter 3 of Title 14. On receipt of a  
76 certificate of incorporation from the Secretary of State, the cooperative shall file written  
77 notification of the receipt of the certificate and a copy of the cooperative's organizational  
78 documents with the Commissioner. The board of directors shall file annually with the  
79 Commissioner a statement of all amounts collected and expenses incurred for the  
80 preceding year.

81 (d)(1) A health group cooperative or a member of the board of directors, the executive  
82 director, an employee, or an agent of a cooperative, shall not be liable for:

83 (A) An act performed in good faith in the execution of duties in connection with the  
84 cooperative; or

85 (B) An independent action of a small employer insurer or a person who provides health  
86 care services under a health insurance plan.

87 (2) A health group cooperative or a member of the board of directors, the executive  
88 director, an employee, or an agent of the cooperative shall not be liable for failure to  
89 arrange for coverage of a particular illness, disease, or health condition.

90 (e) A small employer insurer shall not form, or be a member of, a health group  
91 cooperative. An insurer may associate with a sponsoring entity, such as a business  
92 association, chamber of commerce, or other organization representing employers or serving  
93 an analogous function, to assist the sponsoring entity in forming a health group  
94 cooperative.

33-30C-3.

A health group cooperative shall:

- (1) Arrange for group health insurance plan coverage for small employers that are members of the cooperative by contracting with small employer insurers that meet the criteria established by this chapter for coverage under group health insurance plans;
- (2) Collect premiums to cover the cost of:
  - (A) Group health insurance plan coverage purchased through the cooperative; and
  - (B) The cooperative's administrative expenses;
- (3) Be authorized to contract with agents to market coverage issued through the cooperative;
- (4) Establish administrative and accounting procedures for the operation of the cooperative;
- (5) Establish procedures under which an applicant for or participant in coverage issued through the cooperative may have a grievance reviewed by an impartial person;
- (6) Be authorized to contract with a small employer insurer or third-party administrator to provide administrative services to the cooperative;
- (7) Contract with small employer insurers for the provision of services to small employers covered through the cooperative;
- (8) Develop and implement a plan to maintain public awareness of the cooperative and publicize the eligibility requirements and the procedures for enrollment in coverage through the cooperative;
- (9) Be authorized to negotiate the premiums paid by its members; and
- (10) Be authorized to offer other ancillary products and services to its members as are customarily offered in conjunction with group health insurance plans.

33-30C-4.

- (a) A health group cooperative shall contract only with a small employer insurer that demonstrates:
  - (1) That the insurer or health maintenance organization is licensed and in good standing with the Department of Insurance;
  - (2) The capacity to administer the group health insurance plans;
  - (3) The ability to monitor and evaluate the quality and cost effectiveness of care and applicable procedures;
  - (4) The ability to conduct utilization management and applicable procedures and policies;
  - (5) The ability to assure enrollees a sufficient number of health care providers, including specialty providers; and

131 (6) A satisfactory grievance procedure and the ability to respond to enrollees' calls,  
132 questions, and complaints.

133 (b) A health group cooperative shall comply with federal laws applicable to cooperatives  
134 and group health insurance plans issued through cooperatives to the extent required by this  
135 title or rules and regulations adopted pursuant to this title.

136 33-30C-5.

137 The Department of Insurance shall submit to the Governor and the General Assembly by  
138 January 1, 2011, a report on the effectiveness of the health group cooperative in expanding  
139 the availability of health insurance coverage for small employers."

140 **SECTION 2.**

141 All laws and parts of laws in conflict with this Act are repealed.